

§ 19.6-7

the principal's account to the beneficiary and the effective date of such payments, (iii) the effect of such payments on the principal's retirement benefit. In the case of any court order with retroactive or immediate effect, and in the case of pro rata share payments, the amounts will be withheld from future payments to the principal but will not be paid to the beneficiary for 30 days from the notice date in order to give the principal an opportunity to contest the court order or the validity of the divorce.

PER/ER/RET will provide the former spouse or other beneficiary the same information, stating the exact amount that will be payable to the beneficiary and explaining how that amount was calculated.

(b) *Notification to a former spouse.* When PER/ER/RET receives from a principal—(1) a court order which it deems qualified that requires or forbids payment to a former spouse; or (2) a final decree of divorce which it deems valid without an accompanying court order—PER/ER/RET will send a copy of the document to the former spouse and a notice stating: (i) That PER/ER/RET deems the court order qualified or the divorce decree valid, (ii) that PER/ER/RET intends to honor the court decree or to make pro rata share payments because of the divorce, (iii) the effective date, exact amount, and method of calculation of any payments to the former spouse.

PER/ER/RET will provide the same information to the principal and will explain the effect any payment to a former spouse will have on the principal's retirement benefit.

§ 19.6-7 Decision.

(a) When a response has not been received by PER/ER/RET from a principal within the 30-day period under §19.6-6a, payment will be made in accordance with the notification. When a response is received, the Chief, PER/ER/RET will consider the response. If it is shown that a court order is not qualifying or that a divorce is not valid under terms of the Act and these regulations, payment proposed in the notification will not be made. In such a case, PER/ER/RET will advise both parties of the basis for its decision and

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the alternative action, if any, that it proposes to take.

(b) If a principal responding to a notification under §19.6-6a objects to the payment or other action proposed by the Department in the notification based on the validity of the court order or divorce decree, and the record contains support for the objection, PER/ER/RET will grant the principal 30 days to initiate formal legal action to determine the validity of the objection, will continue to delay payment to the former spouse or other beneficiary during this period, and will notify the beneficiary of this action. If evidence is submitted that formal legal action has been started within the 30-day period, the amount of any proposed payment to a former spouse or other beneficiary will continue to be withheld from any payments due the principal, but no payment will be made to the former spouse or other beneficiary until a judicial decision is rendered or agreement reached between the parties.

[46 FR 12958, Feb. 19, 1981. Redesignated and amended at 46 FR 18970, Mar. 27, 1981]

§ 19.6-8 Allotment to beneficiary.

If a court order is not a qualifying court order because it directs or implies that payment to the beneficiary is to be made by the principal rather than the Secretary of State, the principal may make an allotment to the beneficiary from his/her annuity. An annuitant may also make an allotment from his/her annuity to a previous spouse in the absence of a court order.

§ 19.6-9 Limitations.

(a) Retirement benefits are subject to apportionment by court order under §19.6-1(a)(6) only while the principal is living. Payment of apportioned amounts will be made only to a previous spouse and/or the children of the principal. Such payments will not be made to any of the following:

- (1) Heirs or legatees of the previous spouse;
- (2) Creditors of either the principal or the previous spouse; or
- (3) Assignees of either the principal or the previous spouse.

(b) The amount of any court ordered payment may not be less than one dollar and, in the absence of compelling